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11 IN THE UNITED STATES DISTRICT COURT

12 FOR THE DISTRICT OF ARIZONA

13
14 C.M., on her own behalf and on behalf of
15 her minor child, B.M.; L.G., on her own
16 behalf and on behalf of her minor child,
17 B.G.; M.R., on her own behalf and on
18 behalf of her minor child, J.R.; O.A., on her
19 own behalf and on behalf of her minor
20 child, L.A.; and V.C., on her own behalf
21 and on behalf of her minor child, G.A.,

22 Plaintiffs,

23 v.

24 United States of America,

25 Defendant.

No. 2:19-CV-05217-SRB

**JOINT MOTION FOR ORDER
ENTERING CLAWBACK
AGREEMENT AND ORDER
PURSUANT TO FED. R. EVID.
502(d)**

1 The parties jointly move for entry of an order pursuant to Fed. R. Evid. 502(d), lodged
2 together with this motion, to protect the parties against waiver of any privileges, protections,
3 or immunities attaching to documents produced in this action.

4 The parties anticipate that privileged documents may be produced in this action.
5 Absent an order from the Court, under certain circumstances, production of privileged
6 documents can operate as a waiver of any applicable privilege, protection, and/or immunity
7 with respect to disclosure. Fed. R. Evid. 502(d) provides that “[a] federal court may order
8 that the privilege or protection is not waived by disclosure connected with the litigation
9 pending before the court – in which event the disclosure is also not a waiver in any other
10 federal or state proceeding.” Rule 502(d) is intended to expedite discovery and save costs
11 in matters involving large volumes of documents and ESI, by reducing or eliminating the
12 risk that disclosure will result in waiver of privileges. Fed. R. Evid. 502(d), Advisory
13 Committee Notes (2007). These factors support entry of an order under Fed. R. Evid. 502(d)
14 here.

15 The parties therefore request that the Court issue the parties’ proposed order pursuant
16 to Fed. R. Evid. 502(d).

17 RESPECTFULLY SUBMITTED this 15th day of July, 2020.

18 JAMES G. TOUHEY, JR.
19 Director, Torts Branch

20 /s/ Phil MacWilliams
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